IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 09.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.43115 of 2006
& MP No.1 of 2006

T.Kolappan
S/o K.Thanu Achary,
rep. by his Power Agent,
S.Gayathri,
W/o T.Kolappan,
residing at 7/3, Bank of India
Staff Colony, Ashok Nagar,
Chennai-600 083. ... Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-3.

2.The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore,
Chennai-600 008.

3.K.P.Lakshminarayanan `` .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the notice dated 16.10.2006 issued under Section 256(3) of the Chennai City Municipal Corporation Act, 1919, vide No.9302 confirming the provisional notice issued under Section 256(1) of the Chennai City Municipal Corporation Act, 1919 vide No.7407 dated 25.09.2006 and quash the same.

For petitioner : Mr.R.Kannan
For 1st respondent : Mr.E.R.K.Moorthy

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ORDER

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner has filed this writ petition seeking to quash the notice dated 16.10.2006 issued under Section 256(3) of the Chennai City Municipal Corporation Act, 1919, vide No.9302 confirming the provisional notice issued under Section 256(1) of the Chennai City Municipal Corporation Act, 1919 vide No.7407 dated 25.09.2006.

2. Even at the admission stage, on direction, Mr.E.R.K.Moorthy takes notice for the first respondent-The Commissioner, Corporation of Chennai.

3. In view of the order to be passed hereunder, we are of the view that it is unnecessary to refer all the factual details as stated in the affidavit. However, it is suffice to note that the notice is liable to be quashed on the ground that the authority, who issued the notice, has not applied his mind. According to the Officer, who issued the notice, as per the approved plan the petitioner is entitled to have open area for parking cars, however, he has covered the said area. Pursuant to the said notice, the petitioner has submitted a detailed representation on 14.10.2006, highlighting her stand. The said representation is available at pages 46, 47 and 48 of the typed set of papers. The impugned notice dated 16.10.2006 is available at page No.49. We have verified the said notice. It is a printed form without reference to the earlier notice dated 25.09.2006. Further, for the representation/reply of the petitioner dated 14.10.2006, the Commissioner, Corporation of Chennai, has mechanically issued the impugned notice without taking into account the relevant aspects adverted to by the petitioner. Though the respondents/authorities are entitled to use the printed form; when an aggrieved person makes a representation, highlighting various events, it is but proper on the part of the authority to consider and take a decision one way or other on the basis of the grievance expressed. In other words, the order must reflect the reason or reasons for arriving such conclusion. The impugned notice, as we have already stated, which is available at page 49, does not reflect consideration of the representation of the petitioner dated 14.10.2006, hence, we are of the view that the impugned notice has been issued by the authority in a mechanical manner. On this ground, the impugned notice dated 16.10.2006 is liable to be quashed and accordingly the same is quashed. The first respondent is permitted to pass fresh orders after considering the representation of the petitioner dated 14.10.2006 in accordance

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with law .

4. The writ petition is allowed to this extent. No costs. M.P.No.1 of 2006 is closed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Member Secretary,
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Building, Chennai-600 008.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-3.

+ one cc to Mr. R. Kannan, Advocate sr no. 53665
+ one cc to Mr. E.R.K. Moorthy, Advocate sr no. 53742
+ one cc to Mr. J. Ravindran, Advocate sr no. 54110

BS(CO)
NM(23.11.2006)

W.P.No.43115 of 2006

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